

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

CASCADIA WILDLANDS and OREGON WILD,

Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT, a federal
agency,

Defendant,

and

SENECA SAWMILL COMPANY, an Oregon
Corporation.

Proposed Defendant-Intervenor.

Civil No. 6:20-cv-01395-MK

**JOINT MOTION FOR ORDER
REGARDING SCHEDULING AND
INTERVENTION**

JOINT MOTION

Pursuant to LR 16 and Fed. R. Civ. P. 24, and the Court’s Discovery and Pretrial Scheduling Order, ECF 2 (Aug. 18, 2020), plaintiffs, federal defendant (BLM), and proposed defendant-intervenor Seneca Sawmill Company, respectfully and jointly move the Court for an order governing proceedings in this matter.

1. This case is the second round of litigation regarding the Thurston Hills Project and the Pedal Power Timber Sale which implements the project. In the first litigation, No. 6:19-cv-00247-MC, Judge McShane remanded the matter and ordered BLM “to issue a new

environmental assessment that adequately discloses and analyzes the likely increase of fire hazard to adjacent communities, make it available for public review and comment, and – if the project proceeds – designate and preserve a Recreation Management Zone prior to harvest.” Opinion & Order, ECF No. 31, Sept. 18, 2019.

2. Seneca purchased the timber sale for Pedal Power in September 2018 and was formally awarded the contract in February 2019. Seneca was previously granted intervention as of right by Judge McShane and by the Interior Board of Land Appeals. *See* No. 6:19-cv-00247-MC, ECF No. 15, May 16, 2019 (Order Granting Motion to Intervene); ECF Nos. 10-11, May 6, 2019 (Motion to Intervene, Declaration of Scott Keep). Seneca’s contract interests are the kind of interest that will typically support intervention. *Nw. Env’tl. Advocates U.S. Env’tl. Prot. Agency*, No. 3:12-cv-01751-AC, 2014 WL 1094981, at *3 (D. Or. Mar. 19, 2014) (granting intervention to party “whose existing and potential contracts may be impacted by this lawsuit”).
3. In light of Seneca’s desire to begin operations in early 2021, and the parties’ desire to streamline procedures before this Court and avoid the need for emergency motion practice, the parties jointly request the Court enter an order establishing the following schedules and procedures for resolution of the case.
4. Plaintiffs seek relief under the judicial review provisions of the Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706. The parties agree that the admissible facts of this case regarding the merits of Plaintiffs’ claims are those set forth in the Administrative Record. The parties further agree that this case is therefore exempt from initial disclosure pursuant to Federal Rule of Civil Procedure 26(a)(1)(B)(i), and that this case is exempt from the requirements of Rule 26(f) of the Federal Rules of Civil Procedure. The parties

anticipate that stipulation to authenticity and foundation of the documents produced in the Administrative Record for this case will not be necessary.

5. Given that this action is brought under the APA, and that the parties propose expedited briefing, BLM and Seneca respectfully request that they may forgo filing an answer to Plaintiffs' Complaint. Plaintiffs object to and oppose this request. In the event the Court requires an Answer, BLM and Seneca propose 60 days after service on the United States Attorney as the date for the Answers, consistent with Fed. R. Civ. P. 4(i)(1)(A) and 12(a)(2).
6. The parties propose the following schedule for resolving this action on cross-motions for summary judgment:

Action	Date
Seneca shall be deemed a defendant-intervenor pursuant to Fed. R. Civ. P. 24(a)(2).	Upon entry of this Order.
BLM shall lodge the Administrative Record and serve copies on the parties. BLM hereby seeks leave to provide the Administrative Record on electronic media (e.g., thumb drive), rather than filing it on CM-ECF.	September 17, 2020
Plaintiffs shall notify BLM of any objections to the contents of Administrative Record.	September 24, 2020
Plaintiffs shall file any motion to challenge the Administrative Record. The filing of such a motion shall not affect the schedule for summary-judgment motions. Motions regarding the Administrative Record shall be briefed pursuant to LR 7-1(e).	October 1, 2020
Plaintiffs' motion for summary judgment.	October 8, 2020
BLM's cross-motion for summary judgment and	October 29, 2020

opposition to plaintiffs' motion.	
Seneca's cross-motion for summary judgment and opposition to plaintiffs' motion.	November 3, 2020
Plaintiffs' reply in support of motion for summary judgment and opposition to BLM's and Seneca's motions.	November 19, 2020
BLM's reply.	December 10, 2020
Seneca's reply.	December 15, 2020
Oral Argument	The parties request oral argument, and that the Court calendar argument as early as is compatible with the Court's schedule.

Respectfully submitted this 26th day of August, 2020.

/s/ Lawson E. Fite

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